



State of Rhode Island  
**DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION**  
Shepard Building  
255 Westminister Street  
Providence, Rhode Island 02903-3400

**Enclosure 6b**  
**January 11, 2022**

Angélica Infante-Green  
Commissioner

January 11, 2022

**TO:** Members of the Council on Elementary and Secondary Education

**FROM:** Angélica Infante-Green, Commissioner *a. infante*

**RE:** Approval of Request for Delegation of Authority to the Commissioner to approve plans for virtual learning when the schools are closed due to inclement weather or other emergency under R.I. Gen. Laws §16-2-2(c)

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R.I. Gen. Laws § 16-2-2(a) provides that, with limited exceptions, “every city or town shall establish and maintain for at least one hundred eighty (180) days annually or the equivalent thereof, exclusive of holidays, a sufficient number of schools in convenient places under the control and management of the school committee and under the supervision of the Rhode Island Board of Education.” *Id.* The relevant procedures for shortening this 180-day mandate are described in:

- (1) *The Regulations Governing the School Calendar and Length of the School Day* (2018), which provide that the Commissioner is authorized “to shorten the school year for individual schools based on short term emergency closures for a total of no more than five (5) school days.” 200-RICR-20-05-1.12;
- (2) R.I. Gen. Laws § 16-2-3, which provides that with the approval of this Council, school committees may reduce the number of school days to not less than one hundred seventy (170) days “[i]n the event of any emergency brought about by the incidence of any epidemic or the threat of an epidemic or any emergency which may endanger the health of children or the physical wellbeing of the community.” *Id.*; and
- (3) R.I. Gen. Laws § 16-2-2(c), which provides that RIDE:

shall establish a policy that allows a school district to submit a detailed plan, at any time, to the Commissioner of Elementary and Secondary Education that would allow the schools to conduct instruction through virtual education when the schools have been closed due to inclement weather or other emergency. The plan for virtual education would be subject to, and require approval by, the Council on Elementary and Secondary Education in order to count as a school day. *Id.*

Thus, in order for a day of virtual instruction to count as one of the 180 “school days” mandated under § 16-2-2(a), a plan for providing such instruction must be submitted by a school district, and the plan must be approved by this Council. However, the need for quick action due to the nature of the threat to health and safety posed by COVID-19, and particularly by its Delta and Omicron variants – a threat which caused Governor Daniel J. McKee to extend the Declaration of Disaster Emergency originally issued on March 9, 2020 through at least January 20, 2022, *see* Executive Order 21-119 (December 22, 2021) – has, and will in the near future, continue to make it impossible in many, if not most, occasions, for school districts to obtain the formal approval of this Council prior to making the decision to move to instructional learning, approval which, under § 16-2-2(c), is necessary in order to count a virtual day of instruction as a “school day” under § 16-2-2(a).

**RECOMMENDATION: THAT, the Council on Elementary and Secondary Education delegate to the Commissioner, its Chief Executive Officer, the authority to: (1) approve any plans for virtual learning submitted by school districts pursuant to R.I. Gen. Laws § 16-2-2(c); and (2) if the plan is acceptable, to count a day or days of virtual instruction as a “school day (or days)” under § 16-2-2(a); provided, however, that in exercising such authority, the Commissioner shall consult with the Rhode Island Department of Health, and provided further, that this authority shall remain in effect only while a Declaration of Disaster Emergency remains in effect in the state.**